

## MINUTES OF THE REGULAR MEETING OF MARCH 20, 2024

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon of March 20, 2024, in the County Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Holly Wingate, Mr. Bruce Mears, Mr. Brian Butler, and Mr. Scott Collins. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Mr. Michael Lowrey – Planner III, Ms. Ann Lepore – Planner I and Ms. Jessica Iarussi – Recording Secretary.

Mr. Whitehouse requested that the Commission allow S-23-43 Lands of Greenpath Seaford Landco, LLC - (Glenville Hollow Solar) to be removed from the agenda, as well as, to move the public hearing item, C/Z 2013 4 Points Towing & Roadside to be heard first for public hearings before the Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Agenda as revised. Motion carried 5 – 0.

Motion by Ms. Wingate, seconded by Mr. Mears, to approve the Minutes of January 24, 2024, and February 27, 2024, Planning and Zoning Commission Meeting as revised. Motion carried 5- 0.

## PUBLIC COMMENT

Ms. Jill Partington, spoke regarding minor subdivisions, and their lack of application requirement for the preliminary plat to be reviewed by the Commission; that she suggested that an ordinance for minor subdivisions is adopted to require either an application or preliminary plat to be reviewed prior to the Commission making a decision; that some of the questions on the PLUS application would be pertinent in the case of a minor subdivision, such as, if there is tax ditching, are there any historic or cultural artifacts on the property, or any endangered species, how much forest is proposed to be removed, would the property have any components that require restrictions on the land use that fall, either under Delaware law or Federal law, such as the existence of a bald Eagles nest, and that an appropriate application could be crafted with the information to better serve the people of Sussex County.

Mr. Whitehouse provided the Minor Subdivision processes and requirements for the Commission and those in attendance.

## OTHER BUSINESS

### **2021-09 Brookland Farm**

Final Subdivision Plan

This is a Final Subdivision Plan for the Brookland Farm Subdivision which consists of the creation of ninety-two (92) single-family lots. Included in the plan are fully improved streets, stormwater management, amenities, a Landscape Plan, and other site improvements. The Preliminary Subdivision Plan was approved by the Sussex County Planning and Zoning Commission at their meeting of Thursday, November 18<sup>th</sup>, 2021. The development will be supported by central sewer and water systems, with providers of Sussex County and Artesian, respectively. The property is located on the east side of Bayard Road (S.C.R. 384). This Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes as well as all Conditions of Approval. Tax Parcel: 533-1.00-57.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to defer the Final Subdivision Plan. Motion carried 5-0.

#### **S-24-09 Dagsboro Thorogoods Road Solar**

##### **Final Site Plan**

This is a Final Site Plan for the construction of a Solar Facility and related site improvements. Conditional Use No. 2380 to allow for the use of the site as a solar farm was approved by the Sussex County Council at their meeting of Tuesday, December 12<sup>th</sup>, 2023, through Ordinance No. 2969. The property is located on the southeast side of Thorogoods Road (S.C.R. 333) approximately 1,500 feet north of Dagsboro Road (S.C.R. 334). The Preliminary Site Plan was granted Preliminary Approval by the Planning & Zoning Commission at their meeting of Wednesday, February 21<sup>st</sup>, 2024. Staff request the Commission review and confirm the financial security component of the Conditions of Approval via the related Decommissioning Plan submitted by the Applicant. The Final Plan complies with the Sussex County Zoning Code and the Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 233-5.00-187.00. Staff are in receipt of all agency approvals and the Plan is eligible for Final Approval.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Final Site Plan. Motion carried 5-0.

#### **S-23-52 School Lane Apartments**

##### **Preliminary Site Plan**

This is a Preliminary Site Plan for the establishment of five (5), 4-story, 34-unit apartment buildings containing 12,586 square feet and one (1) 4-story, 31-unit apartment building containing 12,536 square feet (for 201 apartments and 75,516 square feet total), with a portion of these units (51 units) being designated as Workforce Housing Units under the Sussex County Rental Program (SCRPP), associated parking, amenities to include walking paths, two (2) dog parks and a 1,200 square foot pool and related site improvements. The property is located on the west side of John J. Williams Highway (Route 24), approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R. 284) in Lewes, Delaware. Staff note that the proposal is also located within the Henlopen Transportation Improvement District (TID) and shall be subject to any applicable requirements as determined by DelDOT. The Preliminary Site Plan complies with the Sussex County Zoning Code. Staff are also in receipt of comments from the Sussex County Technical Advisory Committee (TAC) in accordance with §115-194.3(B)(2) of the Sussex County Code, which requires Plans for certain proposals within the Coastal Area that meet

specific thresholds to be circulated to the TAC and the Office of State Planning Coordination (OSPC). Copies of these comments, the Environmental Assessment Report and Environmental Review, an approved jurisdictional determination for the site, the SCRP Application and the original PLUS Application have been provided as part of the Commission's Paperless Packet this afternoon. Tax Parcel: 334-12.00-16.04. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approval to be made subject to staff upon the receipt of all agency approvals and the relocation of the proposed dumpster on the south side of the property to an alternative location away from the existing 12.5-ft easement to serve as the primary access to the adjacent Lang Property.

Motion by Mr. Collins, seconded by Mr. Butler and carried unanimously to approve the Preliminary Site Plan with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

#### **S-24-11 Big Debs, LLC**

##### **Preliminary Site Plan**

This is a Preliminary Site Plan for the construction of one 1-story 7,440 square-foot building for retail and office use, a 1-story, 1,848 square-foot building for warehousing and other site improvements. Parcel 11.00 is 1.00 acres +/- and Parcel 11.09 is 1.02 acres +/- and is located on the south side of Lewes Georgetown Highway (Route 9). The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcels: 235-31.00-11.00 & 11.09. Zoning: C-1 (General Commercial Zoning District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approval to be made subject to staff upon the receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Preliminary Site Plan with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

#### **S-24-04 Iglesia Cristiana El Candelero De Oro, Inc.**

##### **Preliminary Site Plan**

This is a Preliminary Site Plan for the construction of one 1-story 1,920 square-foot meeting room, a 1-story 1,081 square-foot storage building, and other site improvements. The parcel is 1.645 acres +/- and is located on the south side of Wilson Hill Road (S.C.R. 257). The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning: C-1 (General Commercial District). Tax Parcel: 135-14.00-14.00. Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approval to be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

#### **S-24-16 Lewes Solar Ridge 1, LLC**

### **Preliminary & Final Site Plan**

This is a Preliminary & Final Site Plan for the construction of a Solar Facility and related site improvements. Conditional Use No. 2379 to allow for the use of the site as a solar farm was approved by the Sussex County Council at their meeting of Tuesday, December 12<sup>th</sup>, 2023, through Ordinance No. 2968. The property is located on the northwest side of Beaver Dam Road (Route 23) off Staple Chase Run. The Applicant has provided details of the proposed financial security package for decommissioning, for review by the Commission. Subject to the Commission's review of the Applicant's proposed financial security, the Final Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Tax Parcels: 234-6.00-6.02, 6.03, & 6.04. Staff are in receipt of all agency approvals and the Plan is therefore eligible for Final Approval.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Preliminary & Final Site Plan. Motion carried 5-0.

### **2018-13 Anchors Run**

#### **Revised Final Amenities Plan**

This is a Revised Final Amenities Plan for the Anchors Run Subdivision, a cluster subdivision consisting of two-hundred and sixty-five (265) single-family lots on a 132.71-acre Parcel of land located accessed off Beaver Dam Road (Route 23). The improvements are to be located at the end of Snug Berth Drive within the existing Subdivision and consist of the construction of a 600-700 +/- square foot pool house, the relocation of the proposed Splash Park to the southern end of the site and the addition of a walking trail amenity to include three (3) park benches and four (4) picnic tables with an assortment of landscaping and plantings. The Applicant has obtained signatures from 34 Property Owners within the Subdivision. The Applicant noted that at the time the Survey was conducted (1/4/2024); that 32 of the Lots within the Subdivision were sold and occupied a total of 62 Lots of which Certificates of Occupancy had been issued representing 50% of existing Property Owners within the Subdivision. Staff further note that as of current, according to the County's Building Permit Dashboard; that 70 Certificates of Occupancy have been issued for the proposed Subdivision and that the remaining 195 lots are currently still owned by the Developer. 34 Property Owner Signatures out of the current 70 Lots that have been sold and occupied represent 49% of the existing Property Owners within the Subdivision. The Revised Final Amenities Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval for the Subdivision. Tax Parcels: 234-6.00-19.00 & 234-6.00-20.01. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

Mr. Robertson stated that he wanted clarification for the Commission as to what the proposed changes were to the Amenities Plan.

Mr. Whitehouse stated that the revised plan will have a forested walking trail with park benches and the clubhouse and splash pad will be moved to the southern side of the site.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Revised Final Amenities Plan. Motion carried 5-0.

### **2021-15 Sandpiper Cove**

#### Revised Preliminary Amenities Plan

This is a Revised Preliminary Amenities Plan for the Sandpiper Cove Subdivision, a cluster subdivision consisting of sixty-eight (68) single-family lots on a 52.59-acre Parcel of land located off Zion Church Road (S.C.R. 382). The improvements are to be located on the west side of Wild Goose Landing within the existing Subdivision and consist of the construction of a 1,617 +/- square foot pool house, 1,600 square foot pool, mail kiosk, and other site improvements. The Revised Preliminary Amenities Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval for the Subdivision. Tax Parcel: 533-12.00-21.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to defer the Revised Preliminary Amenities Plan. Motion carried 5-0.

#### **Lands of Lambert & Sarah Slaughtbaugh**

Minor Subdivision Plan off of a proposed 30-ft Easement

This is a Minor Subdivision for the creation of three (3) lots plus residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 1 consists of 1.138 acres +/-, Proposed Lot 2 consists of 1.113 acres +/-, Proposed Lot 3 consists of 1.189 acres +/-, and the residual lands shall consist of 8.329 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the northwest side of Judy Road (S.C.R. 611). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430-6.00-13.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off a Proposed 30-ft Easement as a preliminary, with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

#### **Lands of Thomas C. & Nancy B. Lang**

Minor Subdivision Plan off of a 12.5-ft & 50-ft Easement

This Minor Subdivision was deferred by the Planning and Zoning Commission at their meeting of Wednesday, February 7, 2024. This is a Minor Subdivision for the creation of three (3) lots plus residual lands with access off of a proposed 50-ft wide ingress/egress access easement and an existing 12.5-ft. wide ingress/egress easement through property of other ownership. Proposed Lot 1 consists of 1.52 acres +/-, proposed Lot 2 consists of 1.47 acres +/-, proposed Lot 3 consists of 1.47 acres +/- and the residual lands shall consist of 2.26 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located off an existing 12.5 easement from the northwest side of John J. Williams Highway (Route 24). The property is located within the Henlopen Transportation Improvement District (TID). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 334-12.00-22.00. Zoning: AR-1 (Agricultural Residential District). Staff are

in receipt of all agency approvals. Therefore, the Plans are eligible for both preliminary and final approval.

Mr. Whitehouse stated that the staff met with the applicant and their engineer to clarify the buffer and to provide a clarification on that, but since then the issue of the width of the current road only being 12.5ft on the current plan does not comply with the current code of a 14-foot-wide easement for a one-way traffic road.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to deny the Minor Subdivision Plan off a 12.5-ft & 50-ft Easement for the reasons stated by staff regarding the non-compliance to Sussex County Code requirements. Motion carried 5-0.

**Lands of S-Squared Investments & Patrick A. Saparito**

Minor Subdivision Plan off of a proposed 30-ft Easement

This is a Minor Subdivision for the creation of one (1) lot plus residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 1 consists of 1.00 acres +/- and the residual lands shall consist of 1.00 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the west side of South Old State Road (S.C.R. 213). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 230-31.00-47.01. Zoning: GR (General Residential District) and AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Butler, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft Easement subject to the removal of the existing single mobile home within that 30-ft Easement with final approval to be made by the staff, subject to the receipt of all agency approvals. Motion carried 5-0.

**Lands of Absher Farms, LLC**

Minor Subdivision Plan off of a proposed 30-ft Easement

This is a Minor Subdivision for the creation of four (4) lots plus residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 5 consists of 1.08 acres +/-, Proposed Lot 6 consists of 0.884 acres +/-, Proposed Lot 7 consists of 0.884 acres +/-, Proposed Lot 8 consists of 0.884 acres +/- and the residual lands shall consist of 12.62 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the north side of Old Furnace Road (S.C.R. 46). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 231-13.00-37.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to approve the Minor Subdivision Plan off a proposed 30-ft Easement with the final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 5-0.

**2016-14 Walden I (F.K.A. Burton's Pond)**

Request for Clarification of Conditions of Approval

Walden (A.K.A. Burton's Pond) Cluster Subdivision was granted Preliminary Approval by the Planning & Zoning Commission at their meeting of Thursday, January 26, 2017, and the Commission granted Final Subdivision Approval at their meeting of Thursday, December 20, 2018. The Applicant is requesting clarification from the Planning & Zoning Commission regarding "Condition No. 14" of the Conditions of Approval which requires, "*Within two years of receipt of a certificate of occupancy for the first owner-occupied home (not unoccupied model homes), the developer shall construct all of the recreational amenities.*" Specifically, the Applicant requests clarification as to whether the "kayak launch" is included in the definition of "all of the recreational facilities" as outlined in Condition #14. Tax Parcels: 234-17.00-17.00 & 234-11.00-97.00. Zoning: Agricultural Residential (AR-1) District.

Mr. Whitehouse stated that for clarification purposes the Commission had modified the Conditions of Approval, specifically Condition No. 14, in which all amenities be implemented before the 180<sup>th</sup> building permit was issued; that the request is to interpret Condition No. 14 and what exactly all recreational amenities include; that the kayak launch, the non-clubhouse and the non-swimming pool elements are considered to be part of the recreational amenities; that according to the Applicant's attorney, the State is requiring a permit for the kayak launch and they have issued a 20-day public notice comment process after which the permits can be issued, and the Commission should be notified from DNREC directly if the State will move forward with the kayak permitting process.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to defer 2016-14 Walden I (F.K.A. Burton's Pond), for staff to contact DNREC to determine the timeframe for issuance of the permit for the kayak launch. Motion carried 5-0.

OLD BUSINESS

**2022-22 St. Georges Terrace**

A cluster subdivision to divide 17.25 acres +/- into thirty-four (34) single-family lots, to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is lying on the north side of Hollyville Road, approximately 0.21 mile east of Hurdle Ditch Road (S.C.R. 290). 911 Address: N/A. Tax Map Parcel: 234-10.00-26.00. Zoning District: AR-1 (Agricultural Residential).

The Commission discussed this application which has been deferred since February 21, 2024.

Ms. Wingate moved that the Commission grant preliminary approval for 2022-22 St. Georges Terrace based on the record made during the public hearing and for the following reasons:

1. The Applicant is seeking approval for a cluster subdivision on land zoned AR-1 located within the "Coastal" Area of the 2019 Comprehensive Plan's Future Land Use Map.
2. The subdivision will have no more than 34 lots on 17.25 acres of land resulting in a gross

- density that is permitted in the AR-1 Zoning District. All lots will be at least 7,500 square feet in size.
3. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the Applicant has addressed the requirements of Section 99-9C of the Code.
  4. DelDOT has determined that the subdivision will have a “Minor Impact” upon area roadways.
  5. The subdivision will be served by central water and sewer.
  6. The subdivision provides for a total environment and design which are superior to that of a standard subdivision including a substantial amount of open space and buffers and it complies with the design requirements and review procedures for an AR-1 cluster subdivision. It is evident from the record that the Applicant complied with the design process of Section 115-25 of the Zoning Code as follows:
    - A. The cluster design includes approximately seven (7) acres of open space or about 40% of the site. This significantly exceeds the 30% minimum required by Code.
    - B. The cluster design will result in less mass grading of the entire property than would occur with a standard subdivision with lots spread across the entire tract.
  7. The subdivision meets the purpose of the Zoning and Subdivision Codes and Comprehensive Plan in that it promotes the orderly growth, convenience, order, prosperity, and welfare of the County.
  8. This recommendation is subject to the following conditions:
    - A. There all be no more than 34 lots within the subdivision.
    - B. The developer shall establish a homeowner’s association responsible for maintenance of the streets, buffers, stormwater management facilities, and other common areas.
    - B. As shown on the Preliminary Site Plan, approximately seven (7) acres, or about 40% of the site shall remain as open space.
    - D. The stormwater management system shall meet or exceed the requirements of the State and County and the Final Site Plan shall contain the approval of the Sussex Conservation District. The system shall be maintained and operated using Best Management Practices.
    - E. There shall be a forested and/or vegetated buffer strip that is at least 30 feet wide along the perimeter of the subdivision in accordance with Section 99-5 of the Subdivision Ordinance. This buffer shall utilize existing forest or similar vegetation where it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.
    - F. The development shall comply with DelDOT entrance roadway improvement requirements.
    - G. Street design shall meet or exceed Sussex County standards.
    - H. Road naming and addressing shall be subject to the review and approval of the



- Sussex County Geographical Information Office.
- I. The subdivision shall be served by Central Sewer.
  - J. The subdivision shall be served by a Publicly Regulated Central Water System providing drinking water and fire protection.
  - K. Sidewalks shall be installed on at least one side of all internal streets.
  - L. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and between 7:00 a.m. and 2:00 p.m. on Saturdays. No Sunday hours are permitted. A 24-inch by 36-inch “NOTICE” sign confirming these hours in English and Spanish shall be Prominently displayed at the site entrance during construction.
  - M. The Applicant shall coordinate with the local school district for a school bus stop within the subdivision. If required by the school district, the location of the bus stop area shall be shown on the Final Site Plan.
  - N. There shall be on-site amenities including a pickleball court, community pavilion, and walking trails. These amenities shall be completed and open to use as required by Section 99-21E of the Subdivision Code.
  - O. The Final Site Plan shall include a Grading Plan for the site. No building permit shall be issued for individual lots until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
  - P. The Final Site Plan shall include an unobstructed area in addition to the main entrance set aside for vehicular access in emergency situations from Hollyville Road. This area does not need to be improved with paving or stones. Instead, it must be an area outside of any lots or structures and free from obstructions so that the development is not isolated in the event that the main entrance is impassable.
  - Q. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
  - R. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to grant preliminary subdivision approval for 2022-22 St. Georges Terrace for the reasons and the conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatly - yea

### **2023-09 Lorraine Brown**

A standard subdivision to divide 4.57 acres +/- into two (2) single-family lots, to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County. The property is lying on the east side of Victory Lane, a private lane that is accessed off of Shawnee Road (Rt. 36). 911 Address: 12559 Victory Lane, Greenwood. Tax Map Parcel: 430-5.00-5.02. Zoning District: AR-1 (Agricultural Residential).

The Commission discussed this application which has been deferred since February 21, 2024.

Mr. Robertson read Mr. Butler's prepared motion per Mr. Butler's request.

Mr. Butler moved that the Commission deny 2023-09 Lorraine Brown to divide an existing 4.57-acre parcel into two new lots based upon the record made during the public hearing and for the following reasons:

1. The access to this lot is proposed from an existing 25-foot-wide private lane known as "Victory Lane". According to the testimony during the public hearing, this Lane already serves nine (9) residences and a poultry farm. Victory Lane does not meet Sussex County's design requirements, and there was testimony in the record that there is no maintenance agreement in place for the ongoing maintenance of the roadway. These problems would be worsened by adding another lot that has to use the private Lane.
2. Ownership and right of access to Victory Lane is not clear. For example, one neighbor testified that the Lane is located entirely upon his property and the Applicant has improperly cleared the vegetation on his land between the edge of the Lane and her property. The location and ownership of Victory Lane and the right of access to it should be determined and clarified before any further subdivision of land along it is sought.
3. There was testimony in the record that Victory Lane is currently used for poultry trucking associated with the farm that is adjacent to the property. Neighbors testified that Victory Lane cannot handle the existing volume and nature of all the vehicle traffic that uses it. As a result, this subdivision would make the existing problem worse.
4. There was testimony that nine (9) residences and the poultry farm use Victory Lane for access. Given this number of residents, it would not be appropriate to grant a waiver from the street design requirements. Unfortunately, without a clear understanding of the ownership and maintenance obligations, this requirement cannot be complied with.
5. The Applicant has not met her burden of showing that she has the right to use Victory Lane through an easement or some other agreement, or the right to further subdivide her property to create an additional property and residence that would use the Lane for access.
6. The property is adjacent to an active poultry farm. For this reason, there is no basis for a waiver from the vegetative buffer requirements, and the additional 50-foot agricultural use setback would apply on this lot. Neither of these are shown on the Applicant's Preliminary Site Plan.
7. I am not satisfied that the requirements of Section 99-9C of the Subdivision Code have been adequately addressed with respect to this Application.
8. In summary, there are simply too many issues that prevent an approval of this subdivision application at this time. If the Applicant is able to conclusively determine ownership of Victory Lane and her right to use it with an additional lot, and she can show that a maintenance agreement has been established among all of the property owners who can

rightfully use it, then the Commission could consider a new application that takes into account the buffers, road standards and agricultural use setbacks.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend denial of Subdivision 2023-09 Lorraine Brown for the reasons and the conditions stated in the motion.

Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatly - yea

**C/U 2413 Blue Hen Rental Company, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OUTDOOR VENUE FOR SEASONAL VENDORS AND SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.84 ACRES MORE OR LESS.** The property is lying on the north side of Line Road (Rt. 54) and the east side of Old Stage Road (S.C.R. 68), at the intersection of Line Road (Rt. 54) and Old Stage Road (S.C.R. 68). 911 Address: 38397 Old Stage Road, Delmar. Tax Map Parcel: 532-20.00-107.01.

The Commission discussed this application which has been deferred since February 21, 2024.

Mr. Mears moved that the Commission recommend approval of C/U 2413 Blue Hen Rental Company, LLC for seasonal vendors and services with similar activities based on the record made during the public hearing and for the following reasons:

1. This property is located very near the intersection of Route 13 and Line Road at Delmar, with all of the intensive commercial uses that exist there. It is also at the intersection of Old Stage Road and Line Road, and it is bounded on the north by existing C-1 property. This is an appropriate location for a conditional use such as this.
2. This use will be compatible with all of the other business and commercial uses in this immediate area.
3. The use is a benefit to the entire community, providing an outlet for local artisans, musicians, and other small businesses.
4. With the conditions imposed by the County, the use will not adversely affect neighboring properties, roadways, or traffic.
5. The use has a public or semi-public character that is a benefit to residents of nearby communities and Sussex County.
6. As part of this use, food service in the form of food trucks or similar temporary stands shall be permitted. Also, the service of alcoholic beverages shall be permitted, subject to the receipt of all required approvals from the Delaware Alcoholic Beverage Control Commission.
7. No parties appeared in opposition to this Application, and several letters were submitted in support of this application.

8. This recommendation is subject to the following conditions:

- A. This use shall be limited to an outdoor marketplace, which may include food and beverage service and live music.
- B. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
- C. The hours of operation shall be limited to 7:00 am through 9:00 pm.
- D. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- E. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
- F. There shall not be any dumping on the site. Also, no junk or unsold items shall accumulate outdoors on the site.
- G. Any dumpsters associated with the use shall be screened from view from neighboring properties or roadways.
- H. The Final Site Plan shall clearly show all parking areas and structures associated with the use as well as the areas set aside for the outdoor sales. There shall also be signage along the property frontage prohibiting parking along the state road right of ways.
- I. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
- J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2413 Blue Hen Rental Company, LLC for the reasons and the conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatly - yea

**C/U 2445 Deihm's Trucking, Inc.**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRUCK PARKING, STORAGE, & MAINTENANCE AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.06 ACRES, MORE OR LESS.**

The property is lying on the west side of Old Hickory Road (S.C.R. 497), at the intersection of Old Hickory Road (S.C.R. 497) and White Pines Lane, approximately 250 ft. northwest of Sharptown Road (Rt. 24). 911 Address: 33124, 7496 & 7506 Old Hickory Road, Laurel. Tax Map Parcel: 432-11.00-40.03.

The Commission discussed this application which has been deferred since February 21, 2024.

Mr. Robertson read Mr. Mears' prepared motion per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/U 2445 Deihm's Trucking, Inc. for a truck parking, storage, and maintenance facility with an office based upon the record made at the public hearing and for the following reasons:

1. The proposed facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring area. It is also small enough that it will not negatively impact traffic or nearby roadways.
2. The property previously had a small business conditional use approved for it. This use is consistent with the prior small-business use that has existed on the site.
3. The location is mostly surrounded by farms and other large tracts of land.
4. The Applicants live on the site and the Applicants intend to keep the residential appearance of the property.
5. No parties appeared in opposition to this application.
6. This recommendation for approval is subject to the following conditions and stipulations:
  - A. One unlighted sign shall be permitted. It shall not be larger than 32 square feet on each side.
  - B. Security lighting shall be shielded and downward screened and shall be directed away from neighboring properties and roadways.
  - C. Any dumpsters or roll-offs shall be screened from the view of neighbors and roadways. The dumpster and roll-off locations shall be shown on the Final Site Plan.
  - D. No junked, unregistered, or permanently inoperable vehicles, trucks or trailers shall be stored on the site.
  - E. There shall be no more than 20 trucks or trailers on the site at any time.
  - F. There shall not be any parking or storage in the front yard setback.
  - G. The parking and repair areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles, trucks, and trailers shall only be parked and worked on within these designated areas. All maintenance activities shall occur inside of a building on the site.
  - H. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.
  - I. The site shall be subject to all DelDOT entrance and roadway requirements.
  - J. There shall be a vegetated buffer planted and maintained to screen the use from neighboring properties and roadways and to suppress noise. The location and details of this vegetated buffer shall be shown on the Final Site Plan.
  - K. This conditional use is on a property that is more than 4 acres in size, and not all of it is intended for use as part of the conditional use business. Therefore, the Final Site Plan shall clearly show the area set aside under the Conditional Use and the remaining portion of the property that is not part of the Conditional Use.
  - L. Any violation of these conditions may be grounds for termination of this conditional use.
  - M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2445 Deihm's Trucking, Inc. for the reasons and the conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatly - yea

## PUBLIC HEARINGS

Mr. Robertson described the procedures for public hearings before the Planning and Zoning Commission.

### **C/Z 2013 4 Points Towing & Roadside, LLC**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.92 ACRES, MORE OR LESS.**

The property is lying on the east side of Sussex Highway (Rt. 13), approximately 650 ft. south of Iron Hill Road (S.C.R. 454A). 911 Address: 36671 Sussex Highway, Delmar. Tax Map Parcel: 532-13.00-84.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the 2022 PLUS comments, the Applicant's response to the PLUS comments, the DelDOT Service Level Evaluation Response, the Applicant's proposed Rezoning Map, a copy of C/U 981 which is dated October 1, 1991, for a truck and auto salvage yard and the Applicant's Exhibit Booklet. Mr. Whitehouse stated that zero comments in opposition and several letters in support had been received for the Application.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Applicants, Mr. Paul & Janet Cope; that also present were Mr. Doug Barry, with Pennoni Engineering. Mr. Hutt stated that the Application is a request to change the zone of a portion of their parcel from AR-1 (Agricultural Residential) and C-1 (General Commercial) to C-3 (Heavy Commercial); that the parcel is 11.92 acres; that the application relates to the rear 10 acres as the front 1.6 acres are already zoned C-1; that the Applicant bought the business in 2022; that the business provides towing, roadside assistance, and auto repair; that they have two locations, one being located in Camden, within Kent County and a location in Delmar, within Sussex County; that there was a previous Conditional Use (C/U 981), for a truck and auto salvage on this parcel from 1991; that the original conditional use Findings of Fact show that the site had been the subject of commercial and heavy industrial, non-conforming uses since 1959; that County Council adopted Ordinance No.788 and that changed the designation of that front portion of the property approximately 1.6 acres from AR-1 (Agricultural Residential) to C-1 (General Commercial), which is no longer available to be assigned to a property; that when the Applicants purchased the property the conditional use that was already in place was limited to a small amount of square feet; that there is almost 12 acres in total that the Applicant's would like to

utilize; that the Applicant's would like to keep the business primarily in the front where it currently is and utilize the rear for a self-storage area; that the surrounding areas of this property are industrial zoning and C-1 (General Commercial) which fits in with the plan for this site and the property lies within Investment Level 3 of the 2020 State Strategies Map, which is known as an area where growth is anticipated; that originally the Applicant's plan was to annex the property into the Town of Delmar, but the Town was not on board with incorporating this property into the corporate limits; that due to this, the Applicants decided to apply for the Change of Zone; that there are no wetlands located on the property that would impact its use, but there are wetlands on the adjacent properties; that there was a formal Wetland Delineation performed as those wetlands run close to the boundary; that there may be buffering that needs to be provided; that the property is not located within a Flood Zone X, which is an area determined to be outside the 500 year floodplain; that there are no Chapter. 89 Source Water Protection concerns, as this is not in the Wellhead Protection Area; that the potential for groundwater recharge is good and fair; that water would be provided by an onsite well and sanitary sewer services would be provided by an onsite wastewater treatment and disposal system; that there was a Service Level Evaluation Request (SLER) filed with DelDOT, which did identify the conceptual use of the property as a self-storage facility, and the Applicants have spent the last two years cleaning up the property from what it was, attempting to return it to the nature and character of the area surrounding this property.

Ms. Wingate requested clarification on the location where the C-3 (Heavy Commercial) zoning change is proposed, and where it is not.

Mr. Collins questioned why the Applicant is not looking to change the entire parcels zoning to C-3 (Heavy Commercial) rather than just a portion of it.

Mr. Hutt stated that the front of the property is already classified as C-1 (General Commercial), which has a broader spectrum of capabilities; that due to this, the Applicants do not desire to give that up and that the rear AR-1 (Agricultural Residential) portion is the only part that would be changed to C-3 (Heavy Commercial).

Upon there being no further questions Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/Z 2013 4 Points Towing & Roadside, LLC. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Butler and carried unanimously. Motion carried 5-0.

### **2022-32 Herring Run**

A cluster subdivision to divide 14.05 acres +/- into twenty-eight (28) single-family lots, to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County. The property is lying on the northeast side of Honolulu Road (S.C.R. 356), approximately 0.22 mile south of Clayton Avenue (S.C.R. 401). 911 Address: N/A. Tax Map Parcel: 433-6.11-6.00. Zoning: AR-1 (Agricultural Residential).

Mr. Whitehouse advised the Commission that submitted into record were the Applicant's Preliminary Subdivision Plan, the Staff Review Letter, the Applicant's response to the Staff Review letter, the Applicant's Exhibit Booklet, the Applicant's Chapter 99-9C response, the Applicant's Proposed Conditions of Approval, the Technical Advisory Committee (TAC) responses, which include responses from the U.S. Department of Agriculture, the Department of Historic and Cultural Affairs, the Division of Public Health, the State Fire Marshall and a letter received from the Division of Watershed Stewardship. Mr. Whitehouse stated that no letters had been received for the Application.

The Commission found that Mr. Rich Polk of Vista Design, spoke on behalf of the Applicant, Mr. Fonzi Scott. Mr. Polk stated that the Herring Run Subdivision would consist of 28 proposed units, as an AR-1 (Agricultural Residential) Cluster Subdivision; that the parcel is currently zoned AR-1 (Agricultural Residential); that the property is located within a Developing Area; that the property is bounded on the west by the Herring Branch tax ditch, on the north by Prong No. 6 of the Herring Branch tax ditch and the east by an unnamed non-tax ditch which serves to drain this property and surrounding properties; that to the south the property is bounded by a single-family detached residential development; that there will be no impact on the Waters of the U.S.; that the property is shown as being within Flood Zone X, which is outside the limits of the 100-year floodplain on the FEMA Flood Map; that the property has been rated as poor for groundwater recharge by the State of Delaware and it is not located within a Wellhead Protection Area; that the site is located within the Indian River School District and is served by the Frankford Volunteer Fire Department; that all lots will front to onsite private drives which will be constructed to Sussex County Private Road Standards and maintained by the future HOA; that the sidewalk will be installed along one side of the private drive and extend to Honolulu Rd.; that they propose to maintain 6.24 acres (44.4%) of open space for the site, which greatly exceeds the 30% minimum that is required; that a 30 foot buffer is proposed along all perimeters, areas away from the sensitive environmental features; that the site proposes two wet pond facilities, designed in accordance with all DNREC and Sussex Conservation District regulations; that the community recreational areas are proposed to include a child's play area, areas for active and passive recreational activities, and a pedestrian trail; that all open space areas are accessible by the perimeter; that all recreational amenities will be open for use prior to the issuance of the 20<sup>th</sup> building permit; that there will be a mail kiosk for residents mail pickup; that the site is currently located within Artesian's CPCN; that there is an Willing and Able to Serve Letter already in the submission packet; that the property is located within the Sussex County Tier 1 Unified Sewer District, with an existing stub located to the property; that residential trash and recycling services will be contracted by the future HOA in accordance with Sussex County requirements; that if requested by the Indian River Schools, a school bus stop location will be provided near the site entrance and land provided and set aside in the Final Site Plan and record plat for the schools use; that stated in their July 8, 2022 Service Level Evaluation the 28 lots proposed will have a negligible impact on the surrounding traffic patterns; that future maintenance of the sites, private roads, open space, stormwater management, recreational amenities will be by a future HOA established by the developer and comprised of all lot owners; that the HOA will maintain the open areas in accordance with the Open Space management plan and the resource and resource buffer management plan submitted as part of the zoning



application; that they received comments from Sussex County Engineering requesting additional information on the Drainage Assessment Report as it pertains to the ditches that surround the property and the report will be provided later within that week.

Chairman Wheatley stated that a suggestion for the Site Plan would be to establish several parking spots near the entrance for the bus stop, as parents tend to sit in their vehicles to wait for the school buses.

The Commission found there was no one present in support of or in opposition to the Application.

Upon there being no further questions Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to 2022-32 Herring Run. Motion by Mr. Mears to defer action and leave the record open for receipt of the additional comments from Sussex County Engineering on the Resource Buffer Assessment, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

#### **2022-28 Smokey Hollow**

A Coastal Area cluster subdivision to divide 69.95 acres +/- into eighty-two (82) single-family lots, to be located on certain parcels of land lying and being in Baltimore Hundred, Sussex County. The properties are lying on the north side of Johnson Road (Rt. 390), approximately 500 feet west of the intersection of Johnson Road (S.C.R. 390) and Dickerson Road (S.C.R. 389). 911 Addresses: 37671, 37618, 37622, 37626, 37632 & 37664 Lakeridge Drive, and 34589 Smokey Hollow Lane, Selbyville. Tax Map Parcels: 533-18.00-20.00, 20.01, 20.02, 20.03, 20.04, 20.05, 20.06, 20.07, 20.08, 20.09 & 20.10. Zoning: GR (General Residential).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Subdivision Plan, the PLUS responses from the Applicant from the State, the Applicant's Exhibit Booklet, which included a Chapter 99-9C Response, the Applicant's response to the State's PLUS comments, the Applicant's Environmental Assessments and Public Facilities Evaluation Report, the DelDOT Service Level Evaluation Response (SLER), the Staff Review letter, the Technical Advisory Committee (TAC) comments, which included a letter from the State Division of Watershed Stewardship, a letter from the U.S. Department of Agriculture, a letter from the Department of Historical and Cultural Affairs and a letter from the Department of Agriculture. Mr. Whitehouse stated one public comment letter had been received for the Application and it was included within the Commission's paperless packet.

The Commission found that Ms. Mackenzie Peet, Esq., with Saul Ewing, spoke on behalf of the Applicant, Smokey Hollow, LLC., that also present was developer Mr. Mark & Karen Zauriencik, Mr. Chris Carbaugh of Atlantic Group & Associates, Inc. and Mr. Ed Launay, Professional Wetland Scientist of Environmental Resources, Inc. Ms. Peet stated that Smokey Hollow proposes to subdivide a 66-acre lot into 82 single family lots, which is a density of 1.2

units per acre; that the project is located on the northwest of Johnson Rd. (S.C.R. 390); that access to the site will be from Johnson Rd.; that there are other subdivisions around including Whispering Woods, Fox Haven, and Eastgate; that the property was subdivided into nine lots, but remained with the current property owners; that a portion of the site also operates as an events venue called Smokey Hollow, known as C/U 2076 and adopted Ordinance No. 2504 from 2017; that the Environmental Assessment and Public Facility Evaluation report by Atlantic Group, about 18 acres of the site are maintained and mowed turf, developed land with a home, wedding venue, horse barns and existing roadways, as well as three man-made ponds; that they intend to continue operating the events venue until the date of recordation of the approved Final Subdivision plan; that the Applicant is agreeable to including a condition to cease the use of the events venue upon recordation of the approved Final Subdivision plan; that there is a tax ditch, a perennial stream on the south side of the project, and approximately 16 acres of wetlands on the site, none of which are State regulated; that the majority of these wetlands will be dedicated to open space and preserved in their current condition; that there are minimal impacts expected and permits will be obtained that are needed; that the Drainage and Resource Buffer Ordinance does not apply to this application as it was submitted prior to it going into effect therefor the Preliminary Plan includes community amenities such as passive and active open space on approximately 40 acres of the site as well as a community clubhouse and pool; that water will be provided by Artesian and sewer service by the County; that the Roxanna Volunteer Fire Company will serve the community; that the plan was presented to PLUS and comments and responses are included in the Exhibit Booklet; that the plan meets all of the GR (General Residential) requirements and followed the Code for any development within the Coastal area.

The Commission found that Mr. Edward Launay, from Environmental Resources Inc., spoke on behalf of the application concerning the environmental considerations. Mr. Launay state the Applicant utilized him when the original lot was broken down and at that time they delineated parts of the wetland delineation on property, then followed up with additional wetland delineation work, and also the delineation of the ordinary high water line of the bear hole tax ditch; that the property is about 18.3 acres developed with homes and facilities like the event center, three existing stormwater ponds totaling about 4.7 acres, forested uplands about 26.3 acres, the clustering forested wetlands are around the perimeter of the property, a large area of wetlands that abuts the tax ditch channel totaling about 16.1 acres with the bare whole tax ditch itself is about 1.4 acres; that the wetlands are Federally regulated and avoided with the exception of two small impacts; that the proposed road crosses a small finger of wetland and that would be filled and one lot that requires a driveway access; that those impacts are only 0.066 acres of the plan that would be it would be subject to getting a nationwide permit from the U.S. Army Corps of Engineers and private state subaqueous lands permitting the project entrance; that the impact of the driveway entrance is .075 acres. keeping the wetland disturbance at a minimum; that no records of threatened and endangered species with respect to the U.S. Fish and Wildlife Service on the site.

Ms. Peet stated how the subdivision meets all the considerations of the Code Section 99-9C requirements and how the Applicants have already amended a previously submitted condition to address the concern of the project's proximity to an existing campground.

The Commission found that there was no one present in support of the Application and seven people in opposition to the Application.

Ms. Sharon Garrison spoke in opposition to the Application with concerns regarding the cutting of trees, which will result in the displacement of many wild animals and create a big issue with runoff from their property to hers, as she is already experiencing flooding through her backyard from the tax ditch.

Ms. Amy Dempsey spoke in opposition to the Application with concerns that the wetlands and “community space” overlap on the plan design; that she does not want to see the trees removed from that area, concerns regarding the landscape buffer being disrupted on her side and not enough buffer being provided near her.

Mr. Whitehouse stated that the County’s definition of open space does not require it to be deforested so just because those two areas overlap, does not mean the plan is to cut down all of the trees in that area; that the tree line and buffer area is shown on the site plan and currently the plan states that they will keep the existing mature trees; that if the Application is approved, a Landscape Plan would still be required as part of the Final Site Plan.

Mr. William Baker spoke in opposition to the Application with concerns that the wetlands will be destroyed as Lot 64 on the plan is more than half listed as wetlands; that he questioned how the lot could be developed on top of wetlands without disturbing the property and wildlife; that there are mitigation requirements for the wetland disturbance; that Lot 64 has grading shown on it; that it is going to take a lot of trees down to grade the lot to where it will drain out; that to get the driveway out, there is going to be a pipe; that they have raised the site above the floodplain about two feet; that when they perform grading in order to get the full elevation for the building to be out of the floodplain it will be disturbing to wetlands; that the poor soil absorption will create a large amount of runoff into the neighboring properties and he expressed concern that the amount of traffic increase this will bring on top of summer traffic is going to overwhelm the roads.

Ms. Mary Olivieri spoke in opposition to the Application with concerns regarding the trees being cut down for Lot 64 will not only diminish the wildlife and nature but also create a huge amount of runoff onto her property; that she would like to propose that with Lot 64 being so large (over an acre) that they increase the landscape buffer from 30-ft to 50 ft or 60 ft to alleviate some of the flooding onto her property.

Mr. Kevin Clark spoke in opposition to the Application with concerns that the landscaping buffer will be pushed onto their property lines; that he wanted to make sure there will be adequate inspections to guarantee that the landscape does not encroach past the limit; that the increase in traffic will be overwhelming to the roadways as they are not currently able to handle the daily traffic, especially during the summer months when there are tourists everywhere.

Mr. Nelson Allen spoke in opposition to the Application with concerns about Lot 64 and how the wetlands are laid out with enough space between to put a dwelling and not encompass the entire lot; that he would like to see the developers do an Erosion and Sediment Control Plan to monitor

the land of Lot 64; That with all of the homeowner drainage complaints subdivisions don't get any less impervious, they only become more impervious with pools and outbuildings and sheds and rooftops all adding to the runoff.

Mr. Dan Debolt spoke in opposition to the Application with concern about Lot 64 and wanting to have the developers reduce the size to keep the neighboring property owners happy by increasing the buffer size to prevent more flooding/runoff to their properties and maintain that sense of nature that the developments hold now; that he suggested to move the lot line being that Lot 64 is so large it would not affect the ability to put a home and accessory structures on the lot.

Mr. Ken Martin spoke in opposition to the Application with concerns about the runoff and flooding from Lot 64; that the lots on Craven Dr. currently flood without there being a disturbance to the wetlands that are around Lot 64.

Mr. Luke Crowfoot spoke in opposition to the Application with concerns about traffic, how DelDOT stated there would be a minimal impact on the surrounding community, during high peak season the roadways are so congested that you cannot get to a store in a reasonable amount of time and now there will be another development in place added even more traffic to already busy roads; that he is concerned that the landscape buffer will not be monitored properly and more trees will be removed than is stated on their plans because no one is inspecting their work

Upon there being no further questions Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to 2022-28 Smokey Hollow. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

#### **C/U 2430 Mark Baull**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.045 ACRES, MORE OR LESS.** The property is lying on the northeast side of the intersection of Armory Road (Rt. 20) and Murray Road (S.C.R. 355). 911 Address: 30465 Armory Road, Frankford. Tax Map Parcel: 433-1.00-7.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, the Applicant's survey, the Applicant's Sketch Plan, and the DelDOT Service level Evaluation Response. Mr. Whitehouse stated no comments had been received for the Application.

The Commission found that Mr. Mark Baull, Applicant, spoke on behalf his Application. Mr. Baull stated that the Conditional Use Application is for an auto repair shop; that his intention is to run the repair shop until he retires in about five to six years; that the auto repair shop would be run by himself with no employees; that there is no storage of vehicles unless they are being

worked on; that no unregistered vehicles will be on the lot; that there is no towing or wreckage being done; that hours would Monday through Friday 8:00 AM – 5:00 PM; that he would like a lighted sign for the business; that he has proper oil disposal, and that he would only have approximately 8-12 cars on his lot at one time.

Chairman Wheatley stated the process of the Conditional Use allows the Commission to put requirements on the use; that the Applicant must follow in order to operate; that a commercial Site Plan would need to be completed and the involvement of other agencies such as DelDOT before the finalization.

The Commission found that there was no one present in support of the Application and two people present in opposition of the application.

Ms. Patricia Martin spoke in opposition to the Application with concerns about the toxic fluids from vehicles and the groundwater with wells and the ways it impacts it; that the Applicant stated he was going to operate Monday through Friday, 8:00 am to 5:00 pm, which was a concern due to the noise with equipment, such as impact guns and compressors; that he had concern to the entire two acres being available to store cars waiting to be repaired and he questioned who would enforce the stipulations put on the Conditional Use if approved.

Mr. Cory Martin spoke in opposition to the Application in regard to the number of cars that would be allowed on the lot; that he does not want to live next door to a junk/salvage yard and would hope that there is some way to follow through with enforcement of the number of cars on the lot.

Upon there being no further questions Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2430 Mark Baull. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

**Meeting adjourned at 6:04 p.m.**

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